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Finding a Voice: Silence and Its Significance for Transitional Justice

‘Speech is civilization itself. The word, even the most contradictory word, preserves contact – it is silence which isolates’ (Mann 1967: 518).

‘Silence has many faces...it is probably the most ambiguous of all linguistic forms’ (Jaworski 1993: 24).

Introduction

In the story of *The Reader*, Michael Berg first meets Hanna Schmitz when he is 15 years old. They begin an intense sexual relationship and Hanna frequently asks Michael to read to her. One day, she suddenly disappears from his life. When he sees her again, she is in a courtroom, on trial with four other women for a heinous crime. During the Second World War, Hanna and her co-defendants had worked as guards in a camp near Cracow. According to the story, one night a fierce bombing raid took place and a church was set ablaze. The guards and troops had locked several hundred female prisoners inside this church, all of whom – with the exception of a mother and daughter – perished in the flames. Although the defendants could have unlocked the church doors and saved the women inside, they did nothing. During the trial years later, a report which formed part of the Schutzstaffel (SS) archives is produced as evidence; ‘The guards who remained behind, the report indicated, had allowed the fire to rage in the church and had kept the doors locked. Among the guards who remained behind, the report indicated, were the defendants’ (Schlink 2008: 124). After one of the defendants insists that it was Hanna who wrote the report, a claim which she herself trenchantly denies, the prosecutor suggests that a handwriting expert should be called. Hanna maintains that this is unnecessary and confesses to writing the report. Michael suddenly realizes that she has long been hiding something – the fact that she cannot read or write.

Hanna's silence in this regard is central to the story and overall plot in *The Reader*. While it thus has a meta functionality, it also has a more personal function; it forms part of Hanna's struggle (Schlink 2008: 133). Her silence is broken only at the end of the story – and broken by her as part of her success in teaching herself to read and write in prison. Following Hanna's suicide, the day before she is due to be granted early release, the prison governor tells Michael that Hanna had asked for a writing manual: '...she didn't try to hide it any longer. She was also just proud that she had succeeded, and wanted to share her happiness'" (Schlink 2008: 204).

There are many other significant silences in *The Reader*. For example, when Michael realizes that Hanna is illiterate, he thinks about speaking to the trial judge and telling him what he knows. The fact that he ultimately does nothing and remains silent implicitly raises important questions about silence and (in)justice. According to one commentator, 'Michael is totally unaware that by not helping her [Hanna], he has repeated the conduct of some ordinary Germans during the Nazi era. Like them he stood idly by while someone he could have helped suffered an injustice' (Roth 2004: 168–169). In this regard, Michael's silence 'speaks' to a wider set of issues that extend beyond him as an individual. As the narrator of the story, however, it is his silence on the issue of Hanna's guilt that is most pronounced. In the first part of the novel, he readily vocalizes his sentiments for her. As the reader learns about Hanna's crimes, however, he provides few insights into what he is feeling. Does he judge her? Should he? Seemingly at a loss to know, 'All he can offer is a silence compounded of horror, shame and guilt – "Should we only fall silent in revulsion, shame, and guilt?"...' (Swales 2003: 13–14).

Michael's own silence in this regard allows the author himself to avoid making any comments on Hanna's guilt or responsibility. These silences in the novel appear paradoxical when one recalls that 'this book is narrated by a fictional jurist and written by a real one' (Alison 2006: 166). That Schlink avoids commenting on the culpability of his protagonist has necessarily invited much speculation about his own feelings towards Hanna – and how he wanted his readers to perceive her. Opinions on this issue remain divided. Stabbert (2009: 172) maintains that Hanna's 'character and conduct are too reprehensible to accuse the author of creating a character we are supposed to pity'. Others, however, have suggested that Schlink wanted readers to feel sympathy for Hanna. For Alison (2006: 171), two factors are particularly telling in this regard, namely 'Hanna's crime ultimately was one of omission' and 'the fire itself was caused by the Allies'. The key point is that Schlink's own silences have created a moral ambiguity at the heart of the novel, deepened by the fact that Hanna herself remains silent about what she did as a SS guard.

If the story of *The Reader* highlights different layers and types of silence, and their complexities, it is striking that the notion of silence is often construed in negative terms. As one illustration, Ahrens (2006: 263) posits that 'Silence is...emblematic of powerlessness in our society. It is therefore not surprising that rape survivors often remain silent about their experiences'. The idea for this article developed out of my own research with victims–/survivors¹ of conflict-related sexual violence in Bosnia-Herzegovina (BiH) (see, for example, Clark 2017a; Clark 2017b). Time and time again, I have been told – primarily by members of civil society in BiH – that women² who suffered sexual violence during the 1992-1995 Bosnian war do not want to talk. These women are tired of telling their stories and/or afraid of speaking out due to the possible reactions of others. While it is indeed challenging to find female (and especially male) victims–/survivors of sexual violence who

are willing to participate in research, dominant explanations for their ‘silences’ are too simplistic and convey only one aspect of a more complex story. As Milliken and Morrison (2003: 1565) point out, ‘Since silence is a behaviour with multiple causes, it is a behaviour that is hard to interpret. People who observe silence have to try to make sense of a manifestation that looks the same but actually signals potentially quite different states of mind in the actor’. In particular, the notion of imposed silences detracts from the possible utility of silence, as well as from its agentic dimensions (Johnson 2011: 60). Fundamentally, rather than simply seeing the imperatives of silence as coming from the ‘outside’, it is more helpful to think about how individuals internally negotiate and navigate these external imperatives. This point can be usefully highlighted using the analogy of corollary discharge (Sperry 1950), a concept from the field of neuroscience.

Corollary discharge – also known as ‘efference copy’ (Feinberg 1978: 636) – is quintessentially about the relationship between internal and external. In relation to sight, for example, corollary discharge refers to eye movement and how our eyes respond to self-generated and external movement. To cite Frith and Done (1988: 438), ‘corollary discharge is part of an internal monitoring system that enables us to distinguish between effects due to our own actions (eye movements) and events in the world outside’. Applied to an auditory context, corollary discharge helps individuals to differentiate between internally generated and externally generated sounds (Levin 2006: 1228).³ Sometimes, however, corollary discharge ‘malfunctions’ and these crucial distinctions are not made. Faulty interpretations may occur, for example, ‘if there is a discrepancy between the observed movements of the image on the retina and those expected on the basis of corollary discharge...’ (Frith and Done 1988: 438).

Relating the concept of corollary discharge to silence, the key point is that silence can be a response to both ‘internally and externally generated percepts’ (Ford and Mathalon 2005: 180) that operate across – and reflect – different types of ‘synaptic connectivity’ (Poulet and Hedwig 2006: 14). To over-emphasize the external can thus result in a ‘faulty interpretation’ that simplifies the complex ontologies of silence. More specifically, the elevation of externally generated percepts – in this case external factors that impose silence – can cause a ‘discrepancy’ that marginalizes the agentic and functional properties of silence (Das 1996: 85).

Underscoring these properties, and emphasizing that silence is itself a form of communication, the article’s central premise is that silence should be allowed to ‘speak’. This argument is developed not simply in the abstract, but specifically in relation to transitional justice – the process of addressing past human rights abuses through judicial and non-judicial measures (United Nations 2010). On the surface at least, there appears to be little place for silence within transitional justice. The latter is quintessentially about voice and about truth-telling, about creating a factual record of what happened. Obradović-Wochnik (2013: 330) thus notes that ‘Fighting against silence is such a deeply entrenched approach of transitional justice that critical reflections on “silence” are rare’. It is precisely the aim of this article, however, to demonstrate that silence is highly relevant to transitional justice and should be taken more seriously. Drawing on Norrie’s (2010) discussion of absence, the article explores two possible and inter-related functions of silence – as a form of resistance and as a survival strategy. It uses these functionalities to illustrate a dialectical relationship between silence as being and becoming, a relationship which in turn foregrounds the transformative possibilities of silence and their significance for transitional justice.

Framing and Conceptualizing Silence

Silence can be something that we crave, something that we desperately need in order to think, to write, to rest. Silence, however, is not simply an absence (Ollin 2008: 266). Physical qualities can be attributed to it; it can be ‘long, heavy, cold or hard (a wall of silence)’ (Jaworski 1993: 82). Moreover, it has multiple dimensions, reflecting the fact that it is ‘inherently spatial and temporal’ (Acheson 2008: 545). It can fill a space, such as a room or a forest (Acheson 2008: 545). It can also be something that we ourselves endeavour to fill, particularly in situations – like a first date or a long taxi ride – where silence can feel awkward and uncomfortable. This can result in ‘an active resistance towards silence’, in which there is a perceived need to fill silences with words (Sutton 2002: 30). Conversation is supposed to ‘flow’, and not to be punctuated with gaps where nobody is speaking. Depending on how it is framed and positioned, therefore, some might construe silence as ‘flagging something unusual or troublesome...’ (Mushin and Gardner 2009: 2035).

This problematization of silence has nevertheless been challenged, particularly within the field of education. In many Western education systems, there is a strong accent on verbal forms of communication and interaction (Jaworski 1993: 22). There is accordingly little space for silence in the classroom, except when teachers specifically request it, which can have the effect of marginalizing children and young people who are accustomed to different learning cultures and education systems.⁴ These individuals may be perceived as academically deficient or insufficiently motivated. Hao (2011: 268), for example, reflects that ‘As a student in the Philippines, performing silence was a natural, sedimented ritual. When attending classes in the US, I wondered why my performances of silence were not considered “normal” here...’. Conceptualizing silence as a ‘pedagogical performance’ (Hao 2011: 268),

he underscores that silence – like speech – is a dialogic act that has a place within the classroom (Hao 2011: 280). It is therefore critical that we do not ‘silence silences’; by doing so, we ‘reaffirm the primacy of speech and perpetuate the dominant groups’ speech as the norm at the macro level’ (Li 2004: 82).

The relationship between speech and silence, however, cannot be captured in simplistic dichotomies and binary frames positioning speech and silence as opposites. Not only do the two closely intersect (Picard 1952: 16; Jaworski 1993: 17); they also complement each other. By way of illustration, Acheson (2008: 535) remarks that ‘We perceive a tune only when silences, however short, mark the beginning and the end; we hear the silence after the last note dies away only because that song has ended and the next has not yet begun’. The same point can be made vis-à-vis silence and speech. Speech effectively helps silence to be ‘heard’ and to be noticed (Gurevitch 2001: 102, n 12), just as ‘a sentence without absences, pauses or spaces would be unintelligible’ (Norrie 2010: 39).

The broader point is that silence can itself constitute an important and multi-layered form of communication (Pagis 2010: 324; Hao 2011: 270). Indeed, silence can contribute to ensuring that channels of communication between people remain open (Jaworski 1993: 49). In the middle of a heated argument, for example, keeping silent and ‘biting one’s tongue’ guards against the utterance of angry words that might ultimately be regretted and destroy a relationship. At a more macro level, silence and the avoidance of particular topics or problems can also be a way of defusing potential conflict between State actors. As one of its dispute management strategies, for example, the Association of Southeast Asian Nations (ASEAN) ‘focuses on issues of mutual interest which offer greater possibility of conciliation. Contentious and difficult matters that are less likely to yield results are put away for a later

period' (Jetly 2003: 58). Yet, this does not mean that silence is an easy option, a deflective strategy for keeping a false peace. While only one person is needed to produce speech, silence is necessarily a more collaborative endeavour in which all are required to co-operate (Pittinger et al. 1960: 88).⁵

If silence can be highly communicative, Jaworski underlines that it is not inherently so; 'when examined from the perspective of a given pragmatic framework, it can be communicatively relevant or irrelevant' (Jaworski 1993: 95). It therefore follows that silence does not have a fixed and bounded meaning (Poland and Pederson 1998: 294). Rather, its significance is culturally and contextually situated (Creed 2003: 1507). In his work with the Western Apache in Arizona, Basso (1970: 225) described how '...keeping silent in Western Apache culture is associated with social situations in which participants perceive their relationships vis-à-vis one another to be ambiguous and/or unpredictable'. To take a very different example, the so-called 'spiral of silence theory' (Noelle-Neumann 1974) posits that people will remain silent when they fear that those 'around' them – including on social media⁶ – do not support their opinions. If a social environment can thereby induce silence, whether or not it actually does so (and to what extent) may depend on the particular issue at stake. Gearhart and Zhang's (2018: 49) research has suggested that '...issue differences are just one of many contextual influences on opinion expression in the spiral of silence theory'.

It is therefore essential to allow silence to 'speak', and one way in which to do so is to refrain from making *a priori* assumptions about what it means and conveys. To take an example, gender can be a factor in explaining silence; this is discussed in more detail in the next section. However, this does not mean that silence should be pre-emptively viewed as a reflection, inter alia, of powerlessness, fear or subjugation (Motsemme 2004: 917).⁷ To

conceptualize it in this way is to foreground what Covarrubius has termed ‘consumptive silence’, a framing in which ‘the self can be seen as unempowered as when silence is imposed for purposes of oppression’ (Covarrubius 2007: 268). This article maintains that an over-emphasis on ‘consumptive silence’ – or more broadly what Baker (1955: 158) has termed ‘negative’ silence – is inherently limiting. To return to the aforementioned corollary discharge analogy, focusing only on the external imposition of silence can bring about a ‘faulty interpretation’ that fails to sufficiently distinguish between the internal and external factors involved in creating and sustaining silence – and how they intersect.

Negotiated silence, for example, is a silence that is ‘discursively brought about between significantly related parties and in social interaction...’ (Kebede et al. 2014: 675). In other words, the relationship is not one-way. An example from BiH usefully highlights this point. The existence of social stigma in BiH has contributed to silencing some victims–/survivors of sexual violence; they are afraid of speaking out, fearful of how others (including spouses and family members) might react (Clark 2017a: 97,102; Clark 2018: 520–521). To accentuate the enforced nature of this silence, however, conceals a more complex dynamic. Some victims–/survivors negotiate the terms on which they will speak (Clark 2017a: 427); some speak out when they feel that it is in their interests to do so (for example, when it might lead to their perpetrators being prosecuted and convicted). Hence, they themselves both contribute to and challenge the silence.

Covarrubius (2007: 226) contrasts ‘consumptive silence’ with a more agentic form of silence that she calls ‘generative silence’. In generative forms of silence, she explains, ‘interactants are seen to engage in a fertile communication activity wherein people affirm the self and each other personally, interpersonally, culturally, and even metaphysically’ (Covarrubius 2007:

268). Generative silences, in other words, have an important illocutionary or intentional dimension. In this way, they point to a more nuanced relationship between internal and external, thereby reflecting – rather than silencing – the complexity of meanings that silence can denote. It is essential to acknowledge these different meanings – and hence the many layers of silence. This is a prerequisite for a sophisticated and ‘fine-grained, interdisciplinary analysis’ (Jaworski and Sachdev 1998: 294).

Reflection on the granularities of silence, as part of such an analysis, brings forth the concept of temporal granularity. Typically discussed in relation to data management and modelling of anchored and unanchored temporal data ‘of multiple granularities’ (Goralwalla et al. 2001: 41), temporal granularity ‘is a unit of a time selected from a set of possible time scales such as seconds, minutes, hours, or decades’ (Cousin and Kahn 1991: 352). Kidron’s work with (adult) children of Holocaust survivors implicitly demonstrates that there are different temporal granularities in the operationalization of silence. One of her interviewees, Eve, disclosed that while her parents had never talked to her about the Holocaust, her mother had often cried in her sleep. In Eve’s words, thus, the Holocaust was ‘present in my home’ (Kidron 2009: 5). After speaking to Eve, Kidron stopped asking interviewees what they knew about the Holocaust and instead asked them whether it was present in their homes. Her cross-temporal analysis of the ‘silent presence of the Holocaust in the everyday life of the survivor home’ (Kidron 2009: 6) thus highlights the granularities of silences across different temporal fields.

These granularities make it clear that silence is not something solid and fixed. There is a natural movement and granular flow, linked to the aforementioned contextual properties of silence (Creed 2003: 1507), which, in turn, foregrounds an important processual element.

Ontologically, silence is an inwardly reflective state of being, yet this is not its sum total. Highly pertinent in this regard is Norrie's discussion of absence. Drawing on Bhaskar's (2008) work on critical realism, he notes that '...Bhaskar wants to deploy the concept of absence both in terms of *being* and (especially) non-being, and in terms of *doing* and (especially) undoing – or, better, negating' (Norrie 2010: 23). Absence, thus, can be both a noun (absence) and an active verb (absenting), which points to its role 'as a form of (non-) being and as present in processes of change' (Norrie 2010: 23). Hence, there is a significant transformative dynamic between absence and absenting. The shift from one to the other is a process of change, and Bhaskar's premise is that 'any process of change can be analysed in terms of absenting what was previously in existence in favour of what has come to be' (Norrie 2010: 29).

This dialectic between absence and absenting, and the absenting of 'what was' to make room for what 'might be' exemplifies what Norrie (2010: 2) refers to as 'the intrinsic relationship between being and becoming in dialectical critical realism'. This relationship, it is argued, is highly relevant for thinking about silence. If silence constitutes a form of absence, the 'absenting of absences' (Norrie 2010: 28) in this regard points to the fact that silence is also much more than absence. Quintessentially, silence is not only about *being*. It is also about *becoming* and the processual dynamics inherent in this being-becoming dialectic. The next section develops this argument by exploring two particular functionalities of silence, namely resistance and survival.

The concepts of resistance and survival are closely inter-linked. To resist can be a way to survive, and to survive can be a form of resistance. An illustration of this is Haddad's research on the *manyano* (prayer union) movement in South Africa.⁸ According to her, the

unique characteristics of the *manyano* – such as the wearing of a church uniform – ‘are forms of resistance to ecclesial and patriarchal domination and enable literal survival by marginalised women’ (Haddad 2004: 11). On a deeper level, there is also a crucial transformative thread that connects resistance and survival. Fundamentally, both of them reflect the ‘transformative possibilities of silence’ (Rowe and Malhotra 2013: 1) that reside in the dynamics of being-becoming.

Silence, Resistance and Survival

If absence is both a noun and a verb, we can similarly draw a distinction between silence and silencing. Yet, while the notion of ‘absenting’ can be positive and enabling of change, the idea of ‘silencing’ has more negative connotations. What this section seeks to demonstrate, through a focus on the themes of resistance and survival, is that there is much more to silence than ‘silencing’ (Wagner 2012: 102). This is not to say that silence is never the result of silencing. However, it is necessary to think about causality in more nuanced terms. As its starting point, this chapter situates these arguments within a gender frame.

Silence as resistance

A comprehensive discussion of silence cannot ignore the issue of gender. Notwithstanding the ‘fluid and polyvalent essence of silence’ (Hatzisavvidou 2015: 512), it is important to acknowledge that silence can be the result – or at least partly the result – of silencing. This necessarily brings forth a significant gender aspect of silence. In *Under the Tongue*, for example, a powerful novel about the problem of incest in Zimbabwe during the 1970s, the rape of young Zhizha by her own father remains shrouded in silence. The central character in

the story, Zhizha's grandmother, asks her (own) husband: 'Can a woman not speak the word that oppresses her heart, grows heavy on her tongue, heavy, pulling her to the ground?...Will my word grow into a tree while I water it every day with silence?' (Vera 2002: 166). The weight of this silence feels heavy and oppressive. It is not a chosen silence but a required silence that is intimately connected to the gendered positionality of Zhizha and her grandmother. In a very different context, Burman discusses the silencing of female indigenous activists in Bolivia. Drawing attention to a range of gendered factors, including the exploitation of female labour and the devaluation of 'female' domestic roles, he underscores that 'The silencing of women in public and political contexts is certainly only one aspect of female subordination in Bolivia' (Burman 2011: 73–74). Gender can also silence men in various ways. The existence of 'restrictive masculinity norms' (Addis and Mahalik 2003: 12), for example, and 'social ideals about gender' (Weiss 2010: 277) can contribute to silencing men and boys who have suffered sexual violence or abuse (O'Leary and Barber 2008).

If these norms and social ideals necessarily have an important contextual and located dimension, this highlights the broader point that gender can produce further silencing effects when it intersects with factors such as race, ethnicity, class and culture (Naples 2003: 1168). Dotson (2011: 244–245), for example, notes that domestic violence in African-American communities 'is often shrouded in silence'. One explanation is that open discussion about this issue might be understood as reinforcing and entrenching cultural and racial stereotypes of 'the imagined "violent" black male' (Dotson 2011: 244–245). Crenshaw (1992: 1472) has made similar arguments regarding the sexual harassment of Afro-American women. In their research with survivors of childhood sexual abuse who identified themselves as Latina women, Ligiéro et al. discuss how demarcated gender roles can combine with cultural norms

and expectations to silence women. In particular, some of the women in the study identified the family – and specifically the protection of elderly family members – as a cultural norm that has a silencing effect (Ligiéro et al. 2009: 73). Certain cultural practices can also have gendered silencing effects. Female genital mutilation demands silent acquiescence, while additionally effecting a concomitant (and embodied) form of silencing via the removal of a part of women's genitalia that can give deep pleasure and enjoyment during sexual intercourse (Broussard 2008: 26).

If the above illustrations underscore the interconnections between silence and power relations, gender is one factor that goes to the very core of these power dynamics. Hence, silence must be read and interpreted within the wider gendered context in which it is expressed and utilized. During her work with battered women in India, for example, Hegde met a 24-year-old woman called Sushila. While arranged marriages were the norm in her community, Sushila was intent on making her own choices. She decided to wed a man with no education, but the marriage ran into difficulties due to his possessiveness. During one of their arguments, Sushila – who had a high school diploma – referred to her husband's lack of education. He felt angry and insulted, and consequently threw her out. Sushila's own family offered little support and blamed her for marrying the wrong man. Having no one else to turn to, she went back to her husband and he continued to be abusive; 'She was too scared to tell anyone lest he found out; she was completely silenced...' (Hegde 1996: 307).

While Sushila's story strongly foregrounds the thematic of enforced silence, there is more to it than just silencing. Central in this regard is the concept of causality. As Bhaskar theorizes it, causality is not only about A causing B. It also involves a process of absencing; and 'since causation is closely linked to change, processes of causation are processes of absencing

previously given states of being' (Norrie 2010: 29-30). If Sushila's silence (B) is viewed solely through the prism of structural constraints (A), this foregrounds a one-way causal dynamic between the two that potentially conceals a more complex causality. Hence, rather than framing her silence simply in terms of what has caused it, it is also essential to reflect on what this causal process is absenting. Looked at from this angle, Sushila's silence can also be viewed in more agentic terms as a form of resistance to male domination. 'My silence', she reflects, 'taught me patience; now I have courage' (cited in Hegde 1996: 307). Her silence, in other words, is more than just a state of being. Her silence makes her stronger, and the absenting of her former self is a process of becoming. This absenting process, in turn, is also a process of change, and thus it has its own causality dynamics which complexify the notion that A causes B. In fact, B can also affect A. Reshaping the concept of causality in this way brings forth a more agentic dimension of silence, in keeping with Covarrubius' aforementioned 'generative silence' (2007: 226). The crucial point is that there is more to gendered silences than enforced silence.

Widening the focus beyond gender and silence, Mathiesen discusses what he terms 'political silencing'. In this political sense, he argues, "'Silence"...is a continuum, from silence despite disagreement (grudgingly you go along) to silence as an accepting attitude (you accept the standpoint, not even noticing that silencing has taken place, or at least not taking the fact of silencing seriously' (Mathiesen 2004: 9). This notion of a continuum further underscores that silence is not merely a causal fixed state of being. There will often be scope, even if it is limited, for transformative agentic manoeuvre and negotiation that potentially allows silence to become something more than just absence (Gatwiri and Mumbi 2016: 13). Fivush (2010: 90), for example, notes that while marginalized groups 'may be silenced at one level by the dominant cultural narrative', they may nevertheless develop within the group their own

‘resistance narratives’ that ‘challenge the explanations and moral imperatives imposed by the dominant narrative...’.

If silence as resistance represents a becoming, and if the process of becoming is an absencing of what was, this points to a crucial nexus between the concepts of becoming and presence. For Davidson and Correia (2001: 76), ‘becoming’ represents ‘maximal self disclosure – being totally present’. Exploring this idea in a musical context through a focus on individual experiences of ‘becoming’, they emphasize ‘the deep level of the relationship between ourselves and our bodies in the moment of the performance’ (Davidson and Correia 2001: 79). This accent on bodies, in turn, illuminates an important embodied aspect of silence. Silence is not simply heard but ‘felt’ within bodies (Acheson 2008: 547). It is also through their bodies that individuals can silently resist and achieve ‘presence’ through their becoming.

Illustrating this point, Gatwiri and Mumbi undertook a study in Kenya focused on women living with fistula. They sought to explore how the 30 women used silence as a way of renegotiating the patriarchal spaces which framed their everyday lives (Gatwiri and Mumbi 2016: 15). One of the women in the study, Akinyi, had vaginal fistula after giving birth to her sixth child and was adamant that she did not want to have any more children. She disclosed that after her forthcoming reconstructive surgery, she would ask the nurse for contraception. This was information that she was not going to share with her husband, and in this regard her silence can be read as embodied resistance to a patriarchal and socio-cultural environment in which husbands typically choose how many children their wives will have. Crucially, ‘In applying silence by withholding information from her husband, Akinyi sought to have ownership and control over her reproductive choices and also protect her body from further

traumatic reproductive health crises...' (Gatwiri and Mumbi 2016: 16). Akinyi thus made her body 'present' by asserting what could and could not be done to it.

In a very different context, an example from the small town of Foča in eastern BiH further demonstrates how bodies can silently communicate resistance. Early in the Bosnian war, Bosniaks started leaving Foča; 'Muslim houses were being set on fire. Sporadic shooting started. Those who could leave the region did so. The others decided to hide in the woods for fear of being burned in their houses while they were sleeping' (Prosecutor v. Kunarac et al. 2001: §20). Fighting in Foča, which had a Bosniak majority prior to the war,⁹ started on 8 April 1992, and Serb forces had taken control of the town by mid-April that year (Prosecutor v. Kunarac et al. 2001: §21). Small numbers of Bosniaks started to return to Foča in 2000, five years after the Bosnian war ended (International Helsinki Federation for Human Rights 2011).¹⁰ These acts of return represent acts of embodied resistance that silently contest the status quo. To cite Eastmond and Selimovic (2012: 520), 'The returnees challenged the dominant narrative¹¹ not through verbal articulations but through the act of "just" being there'. By absenting the absence that existed when there were no Bosniaks left in Foča, the returnees' physical presence represents a significant becoming – and thus change. In particular, their silent presence powerfully communicates the message that Bosniaks in Foča cannot be 'absented', just as the crimes committed against them cannot be ignored or forgotten.

If silence has an important embodied dimension, the example of Foča also illustrates how the spaces with which bodies synergistically interact can themselves become sites of resistance. Pickering's discussion of police raids in loyalist and republican homes in Northern Ireland further illuminates this point. Describing how some women silently opposed these raids¹² by

transforming their homes into sites of resistance, Pickering (2000: 64) notes that one way in which they did so was by 'preparing for raids as a regular part of life'. This meant, inter alia, taking steps to ensure that their homes 'were immaculately clean and beyond reproach from the jibes and appraisal of the security forces' (Pickering 2000: 64). Of course, it might be argued that through the act of keeping their homes clean, the women were simply performing traditional gender roles; and indeed, this is true up to a point. Crucially, 'During the raids, women wanted to carry on normal life while their homes were being pulled apart' (Pickering 2000: 65). At the same time, however, the transformation of their homes into spaces of silent resistance took them outside the home, thereby challenging traditional gender norms and, by extension, the dichotomization of private (domestic) and public (Pickering 2000: 71). Fundamentally, their resistance 'moved women into an external engagement with politics and activism within their communities' (Pickering 2000: 66).

If the women's silence can thus be conceptualized as 'change-directed absenting' (Norrie 2010: 31), this reinforces the argument that the causality involved in silencing is not simply one way. To narrowly view it as such overlooks the fact that causality is significantly tied to space and time. The relationship between the three is one of 'co-embeddedness', thereby reflecting the 'spatio-temporal processuality of being in the world' (Norrie 2010: 31). Thinking more about this co-embeddedness can usefully guide the theorization of silence as a form of survival.

Silence as survival

From the late 1980s onwards, the Lord's Resistance Army (LRA) in northern Uganda abducted and forcibly recruited thousands of children during a period of two decades (Ellison

2015). Those who survived subsequently returned to their communities, but silence was a strictly-enforced form of control in the LRA and some returnees still refuse to break this code of silence. According to Baines and Stewart (2011: 249), ‘They fear they could be overheard by the wrong person, with fatal consequences’. In this way, the silences of the formerly abducted children function as a survival strategy within community spaces in northern Uganda (Baines and Stewart 2011: 249).

What this example also demonstrates is that silence has an important temporal dimension, reflecting different temporal granularities. If silence can bring the past into the present, as previously discussed in relation to Kidron’s (2009) work on the Holocaust, the imperative of silence can have a cross-temporal dimension that ‘carries over’ from a conflict situation to a post-conflict situation. This is so particularly when the ‘post-conflict’ environment is itself defined by high levels of inter-personal violence. El Salvador is a case in point. Between 1980 and 1992, the military-led government fought against the left-wing Farabundo Martí National Liberation Front. Through the use of terror tactics, the State sought to silence communities as a way of depoliticizing them and silence became for them a learned survival strategy (Hume 2008: 70). The formal cessation of the war in 1992 did not bring an end to the violence and bloodshed. The country has a deep-rooted gang culture that feeds public insecurity (Wolf 2017: 3), one of the highest murder rates in the world (International Crisis Group 2017) and ‘the awful distinction of having the highest rate of gender-based killings of women and girls in Central America’ (Zeid Ra'ad Al Hussein, cited in UN News 2017). In this spatio-temporal environment, thus, there is a continuing role and need for silence (Hume 2008: 71).

In microbiology, it is the formation of protective biofilms – defined as ‘structurally and dynamically complex biological systems’ (Hall-Stoodley et al. 2004: 95) – that allows bacterial cells (prokaryotes) to survive in hostile environments (Arciola et al. 2018: 397). By way of analogy, and building on the above examples from Uganda and El Salvador, silence can be viewed as a type of biofilm that has a protective function and enables survival – in the sense of both being and becoming – in environments where speaking out could expose individuals and communities to significant risk. That this protective function is spatially-temporally constituted, moreover, underlines that the relationship between silence and survival extends beyond purely physical survival. One particular illustration of the critical nexus between silence as an inner state of being and an agentic process of becoming is artistic/creative survival.

In his work on the life and art of the late Victorian short story writer, novelist and poet Rudyard Kipling, Gilbert repeatedly returns to the theme of silence. Kipling, he argues, was ‘deeply committed to silence’, not only in his personal life but also in his work as a writer (Gilbert 1986: 116). If, as Kipling’s silences suggest, ‘the survival of an artist depends, to a very great extent, on his knowing when and how to keep silent’ (Gilbert 1986: 118), a very different spatio-temporal example from the West African state of Guinea further substantiates this point. In December 2008, a military junta seized power in Guinea, following a successful *coup d’état* (this was preceded by the death of President Lansana Conté). The new regime became increasingly unstable and unpopular, due to its violent excesses and brutality (European Parliament 2013: 5); and by the summer of 2009, there were widespread popular protests in Conakry. Noticeably absent from these protests were the capital’s musicians, but their silences reflected more than just concerns about physical survival. At stake was also their survival as artists – and, by extension, their economic survival. Their strong financial

dependency on the patronage of elites, for example, meant that they had a strong economic interest in maintaining good relations with the new regime (or indeed any ruling regime) (Dave 2014: 17).

These examples further raise the issue of agency. Returning to Kipling's use of silence, Gilbert conceptualizes this as an awareness or recognition of the limitations of language in capturing the fundamental essence of being. Throughout his life, Kipling 'was engaged in a kind of ontological quest for what he often referred to as "things-as-they-are"' (Gilbert 1986: 121); and he remained preoccupied with what he saw as a critical discrepancy between "things-as-they-are" and those same things as mediated and inevitably distorted by language' (Gilbert 1986: 122). As a survival strategy, it is important to underline that silence is not simply about responding to things 'as they are' or passively accepting the status quo. It is also about positively adapting to them and silently negotiating for the best possible outcome (Gatwiri and Mumbi 2016: 13). In this regard, silence can be understood as a potential 'place of possibility' (Rowe and Malhotra 2013: 3), at the core of which is the transformative dialectic between being and becoming.

This section has explored some of the different ways in which silence can function as a form of resistance and as a survival strategy. In so doing, it has used a wide range and variety of different examples and illustrations that one would not necessarily put together. This was a deliberate choice, as a way of mirroring a seemingly anachronistic juxtaposition that lies at the heart of this paper – the juxtaposition of silence and transitional justice. The final section will demonstrate why silence matters for transitional justice and why it should, accordingly, be given more attention.

Silence and Transitional Justice

Transitional justice refers to ‘a set of measures and processes adopted to deal with the consequences of mass human rights violations in the aftermath of regime changes, violent conflicts, wars, and other historical injustices...’ (David 2017: 151). These measures can include criminal trials, truth and reconciliation commissions (TRCs), memorials, apologies and reparations. At first glance, silence appears to have no obvious – or even legitimate – place within transitional justice. Kovras (2012: 732) notes how the expansion of transitional justice has created ‘normative pressures’ that ‘encourage societies to overturn prolonged silences, even several decades after transition...’. Switching the focus to those who have suffered human rights abuses, Alcalá and Baines (2012: 391) point out that ‘the transitional justice literature has looked with suspicion on survivors’ silence in judicial or community scenarios and built a repertoire of psychosocial interventions and strategies of “reparative remembering”...’. Transitional justice is concerned with establishing the facts, creating spaces for truth telling and thereby ‘breaking’ silence (Frichova 2009; Boraine 2006: 23). Hence, the existence of silence seemingly undermines the very *raison d’être* of transitional justice, particularly when it is viewed as synonymous with impunity, denial and amnesia (Lambright 2015: 1; Fernández and Martin-Ortega 2017: 536; Üngör and Adler 2017: 614). In her work on Northern Ireland, for example, Lawther (2013: 169) notes that ‘Seeking to preserve their narratives of the past, many unionists have implicitly and explicitly met calls for truth with silence’.

However, just as it is erroneous to view speech and silence as opposites, it is similarly problematic to dichotomize transitional justice and silence. Silence and speech represent ‘a communicative continuum of forms (linguistic items) from most to least verbal’ (Jaworski

1993: 46), and both forms have a role to play within transitional justice practice. If, as this article has maintained, silence reflects a core dialectical relationship between being and becoming, this relationship is highly pertinent to transitional justice. It is a dialectic, in short, that points to new agentic and transformative possibilities for victims within transitional justice processes. To develop this macro argument, this section explores four particular ways in which silence is relevant to transitional justice.

Turning to the first of these, there are many potential means of addressing a legacy of past human rights abuses. Nevertheless, there has been ‘a significant institutionalization of transitional justice’ (McEvoy 2018: 185). This has led to growing criticisms of transitional justice as an overly top-down and elite-driven process (Sriram 2007; Lundy and McGovern 2008; Andrieu 2010; Gready and Robins 2014; Macdonald 2017), wherein the leading roles are played by ‘transitional justice entrepreneurs’ (Madlingozi 2010). It is these actors who ‘theorize the field; set the agenda...and ultimately not only represent and speak for victims but “produce” *the* victim’ (Madlingozi 2010: 226).

For transitional justice processes to be successful, however, and to achieve at least some of their goals – which may include re-establishing the rule of law, restoring the dignity of victims and contributing to reconciliation – they need to ‘resonate’ on the ground.¹³ This means that they should ‘attend to critical on-the-ground realities, ranging from social structure, to local knowledge, to complex histories, and to the assumptions that underlie such endeavours’ (Hinton 2011: 17; see also Baines 2010: 415). Silence, it is argued, is highly relevant in this regard because it can help to bring locality and the quotidian more squarely into the purview of transitional justice. When silence is used as a form of resistance and/or survival strategy, for example, it can provide crucial and valuable insights into people’s

everyday lives, their environments and the challenges that they face. Such insights, in turn, can contribute to the development of more ‘grounded’ ways of doing transitional justice that have greater potential to strike a chord at the grassroots level – and thus to more effectively engage local communities in processes of dealing with the past.

This brings us to a second reason for giving more attention to silence within transitional justice. There exists a strong presumption within the field that victims benefit from telling their stories. An exemplar of this is Robben’s (2011: 183) assertion that ‘The recovery of language and the retelling of the experiences are forms of restoration that are politically and emotionally rewarding’. Part of the process of allowing silences to ‘speak’, however, means not (prematurely) interrupting or disturbing them through superimposed ‘talking cures’. In this regard, a useful analogy can be made with psychoanalysis, where attention is not only given to what is said but also to what is not said. To cite Sabbadini (1991: 407), ‘one of our functions as psychoanalysts is to understand the meanings of our patients’ silences: learning about their inner worlds involves listening to their silences, not just to their words’.

The broader point is that victims do not exist in isolation and hence the silences of those around them are also important. The family of the murdered anti-apartheid activist Steven Biko, for example, boycotted the South African TRC – a form of silence that effectively challenged the legitimacy of the TRC process (Swartz and Drennan 2001: 206). More particularly, this silence challenged ‘the ability of the Commission to grant amnesty and take away the right of people to obtain compensation’ (Roht-Arriaza et al. 1997: 329). To take another African example, following the 1994 genocide in Rwanda, the government developed a national unity and reconciliation policy as part of a broader transitional justice strategy. This policy included the creation, in 1999, of a National Unity and Reconciliation

Commission (NURC), mandated to ‘promote unity, reconciliation, and social cohesion among Rwandans...’ (Republic of Rwanda NURC n.d.). The policy, however, has encountered on-the-ground resistance, including what Thomson (2011: 453) has termed ‘withdrawn muteness’. According to her, withdrawn muteness consists of ‘purposeful and strategic moments of silence that peasant Rwandans employ to defy the expectations of the policy in ways that either protect their meagre resources or assure their dignity in their interactions with local officials’ (Thomson 2011: 453).

If silence, as in these examples, expresses agency, discontent and opposition, it can also be read as a form of ‘infrapolitics’ (Scott 2005: 65) – or everyday resistance intertwined with politics (Kelley 1993: 78). Infrapolitics has an obvious peace-building dimension; it not only expresses grassroots concerns and priorities, but it also indicates ‘the development of critical agency of a discursive nature whereby individuals and communities mobilize in hidden and fragmented ways for contextual and effectively hybrid forms of peace’ (Richmond 2012: 118). By extension, there is an important infrapolitics of transitional justice that merits exploration. Fundamentally, ‘if we treat resistance as a valid object of inquiry, rather than dismiss it as a form of deviance problematic for policy goals, it can reveal the alternative visions of peace and justice that may be present in any given society’ (Jones 2016: 80; see also Jones and Bernath 2018). Enabling these visions to emerge and take shape is a critical part of developing more collaborative (and hence agentic) ways of doing transitional justice that re-position the relationship between ‘top’ and ‘bottom’ as one of synergy and partnership.

A third key reason why silence matters is that it raises important issues about change and causality. Within transitional justice, it is voice and truth-telling that are associated with

processes of social change (Nagy 2013: 64); they allow communities and societies to re-build and move on. Silence, in contrast, is often viewed as inimical to change. Communities may be reluctant to speak about and to 'face' the past (Obradović-Wocnnik 2014: 339), and political actors may try to dictate 'which memories can be publicly invoked and which must remain silenced' (Igreja 2008: 55). Silence, however, is not necessarily an obstacle to change. If silence, as this article has argued, is a form of absence, 'what is presently absent shapes what is to come' (Norrie 2010: 38). More particularly, the shift from silence as being to becoming is a process of absencing – and hence of change (Norrie 2010: 31).

This further reinforces the earlier point that silence has its own causal dynamics. Silence, for example, can enable formerly war-torn communities to function 'normally' without renewed bloodshed and hostility. Returning to the example of Foča in eastern BiH, Eastmond and Selimovic (2014: 524) note that 'Silence, whether as a response to deeply painful memories or as a deliberate "holding back" to avoid provocation and conflict, appears as a rational way in which people navigate a new and uncertain social terrain'. In other words, if silence can be linked to change, those who maintain silence can be viewed as potential agents of change. Silence, in this regard, is not merely a state of being, but a processual becoming through living which truth-telling can subvert (Shaw and Waldorf 2010: 13).

The fourth and final reason why silence is relevant to transitional justice is that it can reveal some of the ways in which individuals seek to manage their lives and to cope in situations where atrocities and gross human rights abuses have occurred (or are still occurring). Motsemme describes how many women living under the apartheid regime in South Africa kept silent in order to protect their loved-ones. While she frames this silence as resistance, it can also be viewed as a vicarious survival strategy. In her words, 'this conscious form of

silence was imperative when one wanted to protect loved ones or fellow comrades who were hidden in the house, neighbouring towns, or had crossed borders and the state...' (Motsemme 2004: 918). The reality that many individuals in such situations actively find ways to cope and to deal with their experiences foregrounds an important resilience thematic (Ungar 2008) which, to date, has remained critically under-explored within transitional justice theory and practice.¹⁴ The emphasis within transitional justice on stories of suffering, rather than survival, often results in decontextualized and 'diluted' narrativity (Ryan 2010: 317). The acknowledgment of strategies of coping and positive adaptation can not only help to address this, but also to illuminate 'the dynamic dimensions of the relationship between victimhood and agency' (Rosland 2009: 298). This agency, in turn, reiterates the importance of creating spaces within the design and operationalization of transitional justice processes for those on the ground to articulate their fears, concerns and hopes – not only verbally but also non-verbally (for example through artwork).¹⁵

Conclusion

According to Machery (1978: 86), 'Speech eventually has nothing more to tell us: we investigate the silence, for it is the silence that is doing the speaking'. Arguing that silence can be an important form of communication, this article has examined some of the different ways in which it can speak through a focus on the inter-related themes of resistance and survival. While silence is often depicted as antithetical to processes of reckoning with the past, the central aim of this paper was to present a different perspective. If, as Sutton (2009: 30) contends, 'Silence in improvisation is part of the music and has a musical role and function', the article has sought to demonstrate that silence also has a role and function within transitional justice. It has emphasized the transformative possibilities of silence – via a crucial

being-becoming dialectic – and transposed these possibilities to a transitional justice framework. Ultimately, it has argued that silence creates a space for developing more agentic and contextually-sensitive ways of doing transitional justice.

A major challenge for transitional justice, thus, is to find ways of giving silence a ‘voice’. In relation to men and women who have suffered conflict-related sexual violence, one way in which it can do so is by not requiring them to consistently recount the details of the sexual violence, as well as to enable them to be something *other than* victims of sexual violence. During the South African TRC process, for example, women rarely spoke about sexual violations (Ross 2010: 73). Focusing instead on the consequences of more generalized forms of violence for those around them – their families and communities – they thereby ‘resisted the category of “rape victim” through which the TRC sought to define them...’ (Shaw and Waldorf 2010: 12). Respecting people’s silences about sexual violence is crucial not only for allowing these silences to speak and deliver meaning, but also for enabling other silenced aspects of their stories to emerge.

The men and women with whom I have worked in BiH have told stories of multiple traumas (including forced displacement, physical beatings/torture and loss of loved ones), but also – in some cases – of survival, courage and hope. However, when they have participated in transitional justice processes, most commonly criminal trials, these other layers of their stories have remained submerged. In his research in secondary schools, Ollin (2008: 273) found that ‘Spatial silence was...important and many teachers talked about the importance of giving space for students to think or feel, by removing the immediacy of the teacher’s presence’. Such spaces are also needed within transitional justice, to give individuals more freedom in deciding which aspects of their stories they wish to share – and how.

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Notes

¹ The issue of how to refer to men and women who have suffered conflict-related sexual violence is a complex one. In this article, the terminology of ‘victims–/survivors’ is used to reflect the fact that individuals may view themselves as victims, as survivors or indeed as both. However, no terminology is fully inclusive and it is recognized that some individuals may not identify as either victims or survivors. In discussing transitional justice, the article uses the term ‘victims’, to reflect the terminology commonly used in transitional justice practice.

² Men have been consistently overlooked (see Clark 2017c).

³ Corollary discharge has been discussed in relation to schizophrenia as an example of defective efference copy. This can help to explain why patients experience, inter alia, ‘auditory verbal hallucinations’ (Ford and Mathalon 2004: 38).

⁴ Jaworski (1993: 22), for example, notes that Navajo children ‘...are more visual in their approach to learning about the surrounding world. They depend more on moving freely around in their environment and exploring natural objects by touching them; in indoor play, for example, gestures and touching are often used among native American children, but words are seldom used’.

⁵ Examples of ‘co-operative silence’ can also be found within the animal world. As one illustration, Chiu et al. (2008: 13118) describe how ‘...echolocating big brown bats employ a surprising jamming avoidance strategy, silence. The relation between the occurrence of silent behavior and the spatial separation and heading of the paired bats indicates that one bat stopped vocalizing to avoid interference with another bat’s echo location’.

⁶ According to Gearhart and Zhang (2018: 40), ‘Although empirical applications of the [spiral of silence] theory to online contexts are limited, results generally support notions that the spiral of silence theory is alive and well in online settings’.

⁷ Roberts (2000: 928), for example, notes that ‘silence on the part of women of color contains a paradox: our silence may be a product of oppression or it may be a means of resistance against oppression’.

⁸ It was indigenous African Christian women who established the movement.

⁹ According to the judgement of the International Criminal Tribunal for the former Yugoslavia (ICTY) in the case of Prosecutor v. Karadžić (2016: §839), ‘Prior to the war the population of Foča was approximately 40,000 and consisted of about 52% Bosnian Muslims, 45% Bosnian Serbs, and about 3% who were Montenegrins’.

¹⁰ Bosniaks are now a minority in Foča, which was temporarily renamed ‘Srbinje’ during the Bosnian war (SENSE Agency 2014).

¹¹ In 1993, the United Nations (UN) Security Council established the ICTY to prosecute some of the many crimes committed during the wars in the former Yugoslavia. The Tribunal, which completed its mandate at the end of 2017, claimed that its judgements ‘have contributed to creating a historical record, combatting denial and

preventing attempts at revisionism...' (ICTY n.d). In reality, its work has had little impact on diluting competing ethnic narratives and denial remains strong across BiH (Clark 2014) – including in Foča (Remiković 2011).

¹² Pickering (2000: 73) points out that 'Women from nationalist backgrounds invariably reported engaging in direct verbal abuse with the individual members of the security forces or, alternatively, remained completely silent in defiance of the security forces'.

¹³ Franke (2006: 822), for example, remarks that 'Some scholars have launched an allied criticism of truth and reconciliation commissions to the extent that they privilege certain kinds of memory practices that find their roots in the United States and Europe and do not have cultural resonance in communities that value "forgive and forget" methods of collective healing'.

¹⁴ This is an important gap which the author's current research – funded by the European Research Council – is seeking to address.

¹⁵ Focused on contemporary artworks in Northern Ireland, for example, Bell (2011: 325) maintains that 'The artworks become sites in which the assumptions of transition are opened up for critical reflection, probing the notion of what constitutes Peace and its conditions of possibility'.

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